

~~CONFIDENTIAL~~~~SECRET~~

OGC Has Reviewed

GENERAL COUNSEL'S OPINION NUMBER 51-2, DATED 1 MAY 1951

The right of members of the family of an employee to travel at Government expense is dependent upon the travel of the employee.

TO THE DEPUTY DIRECTOR (ADMINISTRATION)

1. Reference is made to the attached request of Mr. H. B., who intends to remain in B. while his dependents make a round trip to the United States. Mr. B. has requested that the Government reimburse him for the expenses of such a trip.



STATOTHR

3. In this connection, it would seem advisable to mention certain general principles involving the transportation of dependents of a Government employee. The right of a dependent to travel at Government expense is dependent upon the travel of the employee, and the Comptroller General has ruled that independent travel of a dependent is permissible only when Congress has specifically provided for it. Such is not the case here. It is not essential that the dependents' travel be simultaneous with that of the employee; but there must be travel by the employee.

4. To be specific, Mr. B. can be reimbursed for travel of his dependents to the United States only if he travels to the United States. He can be reimbursed for travel of his dependents back to B. only if he has returned to the United States and then travels to B. Consequently, if Mr. B. remains in B. while his dependents make a round trip to the United States, he can never be reimbursed for his dependents' travel expenses on that round trip.

5.



STATOTHR

STATOTHR

insofar as home leave is concerned, it seems

~~SECRET~~~~CONFIDENTIAL~~

2 59 407 32 36 38 22 30 5
 AUTH: HR 70-3
 REV. 1-1-51

~~CONFIDENTIAL~~

~~SECRET~~

Page 2 - General Counsel's Opinion No. 51-2

pertinent to consider the intent of Congress in that regard. Prior to passage of the 1946 legislation, the Secretary of State was "authorized" to grant home leave to officers and employees of the Foreign Service who had completed three years of continuous service abroad. However, in passing the 1946 law, Congress lowered the period of overseas service to two years, and stated that the Secretary of State "shall order" such officers and employees to take home leave.

6. The lowering of the period to two years, plus the use of the word "shall," clearly indicate what Congress had in mind in authorizing home leave. The following quotation emphasizes the legislative intent:

"...one of the prime objectives of the act...is to insure that the officers and employees of the Service shall return more often to the United States to renew touch with the American way of life and so become better representatives of this country abroad..."
(House Report No. 2508, 79th Congress, 2nd Session, page 139).

7. This office is cognizant of the unfortunate possibilities of this problem. An employee is virtually "forced" to take home leave in order to obtain reimbursement for travel of his dependents, thereby requiring the Government to pay travel expenses for an employee who otherwise would remain overseas. However, the Comptroller General has ruled consistently that the right of a dependent to travel at Government expense is dependent upon the travel of the employee.

Finally, it is impossible to ignore the expressed intent of Congress in making provision for home leave.

LAWRENCE R. HOUSTON
General Counsel

~~SECRET~~